

**Supporting Statement for Paperwork Reduction Act Submissions**  
**Safety Net Report, Form MMS-4411**  
**OMB Control Numbers 1010-0103**

**A. Justification**

**1. What circumstances make the collection necessary?**

On August 10, 1999, the Minerals Management Service (MMS) published in the Federal Register (64 FR 43506) the notice of a final rulemaking titled "Amendments to Gas Valuation Regulations for Indian Leases," with an effective date of January 1, 2000. In that Notice, MMS requires that lessees submit the Safety Net Report, Form MMS-4411 (See Attachment 1), when gas production from an Indian lease is sold beyond the first index pricing point.

The Safety Net Report is part of MMS= final rulemaking amending its regulations governing the valuation for royalty purposes of natural gas produced from Indian leases. The gas regulations apply to all gas production from Indian (tribal or allotted) oil and gas leases (except leases on the Osage Indian Reservation). The new regulations resulted from a negotiated rulemaking between Indian Tribes and allottees, oil and gas industry, and government.

The intent of the amendments to the valuation regulations is to ensure that Indian mineral lessors receive the maximum revenues from mineral resources on their land consistent with the Secretary of the Interior=s (Secretary) trust responsibility and lease terms. It is also our desire to improve the regulatory framework so that information is available which would permit lessees to comply with the regulatory requirements at the time that royalties are due.

The safety net calculation establishes the minimum value, for royalty purposes, of natural gas production from Indian leases. This reporting requirement will assist the Indian lessor in receiving all the royalties that are due and aid MMS in its compliance efforts. The rule requires lessees to calculate the safety net price using prices received for gas sold downstream of the first index pricing point. It will include only the lessee=s or the lessee=s affiliate=s arm's-length sales prices and it will not require detailed calculations for the costs of transportation. By June 30 following any calendar year, the rule

requires the lessee to calculate for each month of the previous calendar year a safety net price. Lessees must calculate the safety net prices for each index zone where the lessee has an Indian lease. The rule requires the lessee to submit a separate Form MMS-4411 for each index zone. The safety net price will capture the significantly higher values for sales occurring beyond the index point. The lessee will submit its safety net prices to MMS annually (by June 30) using Form MMS-4411.

Rules establishing the use of Form MMS-4411 to report the safety net price are at 30 CFR 206.172 (e). The Secretary is required to prescribe proper rules and regulations and to take any and all actions necessary to accomplish the purpose of applicable laws. (See Attachment 2 for citations referenced in this section.)

**2. *How, by whom, and for what purpose will the information be used?***

The rule requires the lessee to submit a separate Form MMS-4411 for each index zone where the lessee has an Indian lease and the gas is sold beyond the first index pricing point. The lessee will compare the amount that is 80 percent of the safety net price to the amount that is 125 percent of the monthly index value for the index zone. The lessee will owe additional royalties plus late-payment interest if 125 percent of the index value were less than 80 percent of the safety net price. We will have one year from the date the lessee's Form MMS-4411 is due or is filed, whichever is later, to order the lessee to amend its safety net price calculation. If we do not order any adjustment to the safety net price, the safety net price would be final for the lessee. This report will allow MMS and the tribes to ensure that Indian mineral lessors receive the maximum revenues from mineral resources on their land consistent with the Secretary's trust responsibility and lease terms.

The lessee or operator will know the disposition of the gas and the safety net price will include only the lessee's or the lessee's affiliate's arm's-length sales prices. The lessee would only include sales under those contracts that establish a delivery point beyond the first index pricing point to which the gas flows. Moreover, those contracts must include any gas produced from or allocable to one or more of the lessee's Indian leases in the index zone. The MMS or Tribal auditors, Indian representatives, and personnel from the Royalty Valuation Division (RVD) and the Office of Indian Royalty Assistance, may use the information provided on the form.

**3. Does the collection of information involve the use of information technology?**

The companies having Indian leases use computers to maintain lease data. However, in view of the anticipated small number of leases involved, and the differing and complex computer system designs maintained by the companies operating these leases, we are not requiring lessees to submit the information electronically.

**4. Is the information duplicated by any other Federal agency and can similar information be used or modified for this collection?**

The Safety Net Report is unique and submitted for each index zone where the lessee has an Indian lease. Each index zone is named for identification and a separate form must be filed for each index zone. No other Government agency collects this information.

**5. What is the impact on small businesses or other small entities?**

Small businesses do operate Indian leases, but the Safety Net Report requires only nominal lease data and a standard weighted-average calculation in order to complete it. There are no special provisions for mitigating reporting requirements for small businesses.

**6. What are the consequences if the collection is not conducted or is conducted less frequently? Are there technical or legal obstacles to reducing the burden?**

Through disposition of the Secretary's trust responsibilities under Indian lease terms, the MMS is responsible for assuring the proper valuation of production from Indian leases. Not collecting the information limits the Secretary from discharging his duties and may also result in loss of royalty payments to the Indian lessor due to royalties not being collected on prices received under higher priced long termed sales contracts.

**7. Are there any special circumstances that require exceptions to 5 CFR 1320.5(d)(2)?**

There are no special circumstances associated with submitting Form MMS-4411.

**8. Describe efforts to consult with the public and a representative sample of respondents?**

The final rule and form represent recommendations of the MMS Indian Gas Valuation Negotiated Rulemaking Committee (Committee). The Committee was composed of members representing Indian Tribes and allottees, oil and gas industry, and government. All of the Committee sessions were announced in the Federal Register, were open to the public, and provided an opportunity for public input. Also, as part of our request to extend this information collection for 3 years, we published a 60-day Federal Register notice (Attachment 2), soliciting comments on our request; no comments were received.

**9. Will payment or gifts be provided to respondents?**

There have been no decisions to provide any payment or gift to any Indian lease operator or interested party.

**10. What assurance of confidentiality is provided to respondents?**

Commercial or financial information provided to MMS relative to minerals removed from Indian leases may be proprietary. Trade secrets, proprietary and other information will be protected under the Freedom of Information Act (5 U.S.C. 552(b)(4)), and Department of the Interior regulations (43 CFR 2). Storage of proprietary information and access to it is controlled by strict security measures.

**11. Does the information collected include any questions of a sensitive nature?**

No questions of a sensitive nature are involved.

**12. What is the estimated reporting and recordkeeping hour burden of the collection of information.**

We estimate that the total annual burden for this information collection is 10,500 hours. There are 700 companies that pay royalties on approximately 4,500 tribal and allotted Indian leases. Approximately 2,400 of these tribal and allotted Indian leases produce gas. We estimate that 20% of the companies (or 140 companies) have sales beyond the first index pricing point. We estimate that each company will have production in 3 of the 7 index zones, thus, each company will submit a separate form for each index zone (or 3 forms per company). We also estimate that

24 hours are required per report to extract from company records the data required at 30 CFR 206.172 (e) and that there will be an annual recordkeeping burden of one hour (3 index zones x 140 companies x 25 hours = 10,500 burden hours). Using a cost of \$50 per hour, we estimate that the annual burden cost is \$525,000.

***13. What is the estimated reporting and recordkeeping cost burden of the collection of information.***

Incremental capital and start-up costs and operation and maintenance costs to respondents for the purposes of complying with this information collection are insignificant.

***14. What is the estimated annualized cost to the Federal Government?***

The estimated annualized cost to the Federal Government is \$63,000. We estimate that 420 annual reports will be submitted by 140 companies for 3 index zones. The Lakewood State and Indian Compliance Division of the Royalty Management Program will track and maintain the annual reports. We estimate that an analysis of each report will take 3 hours or 1,260 hours for all reports submitted. Using a cost of \$50 per hour, we estimate that the annualized cost to the Federal Government is \$63,000.

***15. Are there any program changes or adjustments requested?***

The current OMB inventory of 37,400 hours is decreased to 10,500 hours. This adjusted decrease of 26,900 burden hours is the result of our originally overestimating the number of companies submitting Form MMS-4411 and overstating the number of index zones for which each company would have to submit this form.

***16. Are there plans for tabulation and publication of the results of the information collection?***

The data collected will not be published for statistical use.

***17. Is the agency seeking approval to not display the expiration date for OMB approval of the information collection?***

The expiration date for OMB approval of the information collection will be displayed on Form MMS-4411.

***18. Are there exceptions to the certification statement in Item 19 of Form OMB 83-I?***

Collection of this information complies with Item 19,

ACertification for Paperwork Reduction Act Submissions,@ on Form  
OMB 83-I.

**B. Collections of Information Employing Statistical Methods**

This section is not applicable. We will not employ statistical  
methods in this information collection.